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EXAMINER	
CLARK, AMY LYNN	
ART UNIT	**PAPER NUMBER**
1655	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/524,015	ENOKI ET AL.	
	Examiner	Art Unit	
	Amy L. Clark	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 May 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Acknowledgment is made of the receipt and entry of the amendment filed on 19 April 2006 with the cancellation of claims 1-10 and the addition of new claims 11-17.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 11-17 are currently pending.

Currently, Claims 11-17 are under examination.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Newly applied as necessitated by amendment. Newly submitted claims 11-17 are objected to because of the following informalities: "Angelica pubsecens" is misspelled. The correct spelling is Angelica pubescens. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Newly applied as necessitated by amendment. Newly submitted claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Enablement is considered in view of the *Wands* factors (MPEP 2164.O1(A)). These include: nature of the invention, breadth of the claims, guidance of the specification, the existence of working examples, state of the art predictability of the art and the amount of experimentation necessary. All of the Wands factors have been considered with regard to the instant claims, with the most relevant factors discussed below.

Nature of the Invention: Claims 11 and 12 are drawn to a therapeutic agent or prophylactic agent for treating or preventing a disease characterized by an abnormal response to insulin or abnormal insulin levels, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient and claims 14 and 15 are drawn to a food, beverage or feed for treating or preventing a disease characterized by an abnormal response to insulin or abnormal insulin levels, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient.

Breadth of the Claims: The claims are broad in that any amount of an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* may be administered to treat or prevent any disease characterized by an abnormal response to insulin or abnormal insulin levels. The complex nature of the subject matter of this invention is greatly exacerbated by the breadth of the claims.

Guidance of the Specification and Existence of Working Examples: The specification describes an *in vitro* method of induction of adipocyte differentiation (insulin-mimetic activity) using extracts of *Angelica keiskei* koidz. roots, leaves and stem, *Apium* leaf extract and *Petroselium sativum* extracts (See Examples 3 and 4, paragraphs 0080-0092, Example 7, paragraphs 0094-0096, Example 15, paragraphs 0112-0114, and Example 23, paragraphs 0137-0139, for *Angelica keiskei* koidz. roots, leaves and stems; Examples 9 and 10, paragraphs 0098-0103, for *Apium*; Example 12, paragraphs 0105-0107, for *Petroselium sativum* extract). The specification further describes an *in vitro* method of enhancing action for glucose uptake from *Angelica keiskei* koidz. or an ethanol extract fraction from root portions of *Angelica keiskei* koidz., *Apium* extract and *Petroselium sativum* extract (See Example 5, paragraphs 0087-0092 and Examples 16-21, paragraphs 0115-0135, for *Angelica keiskei* koidz.; Example 10, paragraphs 0101-0103, for *Apium* extract; Example 13, paragraphs 0105-107, for *Petroselium sativum* extract). The specification further describes and *in vivo* murine model for observing the effects of a processed product from *Angelica keiskei* koidz. roots on diabetes (See Example 26, paragraph 0142).

The specification envisions that an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient will have utility in humans treat or prevent any disease characterized by an abnormal response to insulin or abnormal insulin levels.

However, no working examples are provided with regard to a method to treat or prevent all diseases characterized by an abnormal response to insulin or abnormal insulin levels. Furthermore, no working examples are provided that demonstrate the efficacy of an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient in treating or preventing all diseases characterized by an abnormal response to insulin or abnormal insulin levels in humans, such as diabetes, arterial sclerosis, cocaine withdrawal symptoms, static cardiac incompetence, cardiovascular seizure, cerebral angiospasm, chromaffinomosa, ganglioneuroblastoma, Huntington's disease, hyperlipemia, and hyperinsulinemia.

Predictability and State of the Art: The state of the art at the time the invention was made was unpredictable and underdeveloped. For example, Shimura (Reference N, Japanese Patent Number: 05-255100, Translation provided herein) teaches a lipase inhibitor containing an active ingredient from *Angelica keiskei* koidz. for treating obesity, however, no working examples are provided.

Thus, while the claim-designated method may be useful for providing such an effect, Applicant does not disclose an extract of a plant selected from the group

consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient in treating or preventing all diseases characterized by an abnormal response to insulin or abnormal insulin levels, such as diabetes, arterial sclerosis, cocaine withdrawal symptoms, static cardiac incompetence, cardiovascular seizure, cerebral angiospasm, chromaffinomosa, ganglioneuroblastoma, Huntington's disease, hyperlipemia, and hyperinsulinemia. The Office further notes that while the specification discloses that the claim-designated methods and claim designated compositions will have utility in humans in treating such as obesity, diabetes, arterial sclerosis, cocaine withdrawal symptoms, static cardiac incompetence, cardiovascular seizure, cerebral angiospasm, chromaffinomosa, ganglioneuroblastoma, Huntington's disease, hyperlipemia, and hyperinsulinemia, nowhere in the specification or in the limitations does Applicant direct the claimed subject matter to the administration of compositions comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient to any subject.

It should be noted that at the time of filing of the present application, the art of medicine did not recognize the administration of compositions comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient, wherein said compositions comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe*

javanica, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient for treating or preventing all diseases characterized by an abnormal response to insulin or abnormal insulin levels, such as obesity, diabetes, arterial sclerosis, cocaine withdrawal symptoms, static cardiac incompetence, cardiovascular seizure, cerebral angiospasm, chromaffinomosa, ganglioneuroblastoma, Huntington's disease, hyperlipemia, and hyperinsulinemia in humans.

Amount of Experimentation Necessary: The quantity of experimentation necessary to carry out the claimed invention is high, as the skilled artisan could not rely on the prior art or instant specification to teach how to make and use any compositions comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient in treating or preventing all diseases characterized by an abnormal response to insulin or abnormal insulin levels, such as obesity, diabetes, arterial sclerosis, cocaine withdrawal symptoms, static cardiac incompetence, cardiovascular seizure, cerebral angiospasm, chromaffinomosa, ganglioneuroblastoma, Huntington's disease, hyperlipemia, and hyperinsulinemia in humans. In order to carry out the claimed invention, one of ordinary skill in the art would have to identify compositions comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* that can be administered in a therapeutically effective dose with an acceptable level of side-effects.

In view of the breadth of the claims and the lack of guidance provided by the

specification as well as the unpredictability of the art, the skilled artisan would have required an undue amount of experimentation to make and/or use the claimed invention. Therefore, Claims 11, 12, 14 and 15 are not considered to be fully enabled by the instant specification.

Response to Arguments

Applicant's arguments, see "Applicant Arguments/Remarks Made in an Amendment", filed 03 May 2006, with respect to the rejection of claims 1-4 under 35 U.S.C. 102(b) as being anticipated by Maurel et al. (A*, US 6,129,124) and with respect to the rejection of claims 5 and 6 under 35 U.S.C. 102(b) as being anticipated by Minegami (U*, Japanese Patent Abstract: 58-162526) have been fully considered and are persuasive in view of the cancellation of Claims 1-4 and in view of newly added claims 11-13 and 16, which now recites "A therapeutic agent or prophylactic agent for treating or preventing a disease characterized by an abnormal response to insulin or abnormal insulin levels, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 11, ""An insulin-mimetic action agent, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 13 and ""An agent for the enhancement of glucose uptake into a cell, comprising an extract of a plant selected from the group consisting of

Angelica keiskei koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 16 and in view of the cancellation of Claims 5 and 6 and in view of newly submitted Claims 14 and 15, which now recites "A food, beverage or feed for treating or preventing a disease characterized by an abnormal response to insulin or abnormal insulin levels, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient". The original rejections made on the original Claim 1, which read, "a therapeutic agent or prophylactic agent for a disease accompanying an abnormality in an amount of insulin or insulin response, characterized in that the agent comprises as an effective ingredient a processed product derived from a plant belonging to Umbelliferae" under 35 U.S.C. 102(b) were anticipated by Maurel et al. (A*, US 6,129,124) and Claim 2, the original Claim 3, which read "An insulin-mimetic action agent, characterized in that the agent comprises as an effective ingredient a processed product derived from a plant belonging to Umbelliferae", which also reads on the original Claim 4 and the original rejections made on original Claim 5, which read "to a food, beverage or feed for a disease accompanying an abnormality in an amount of insulin or insulin response, characterized in that the agent comprises as an effective ingredient a processed product derived from a plant belonging to Umbelliferae", which also reads on original Claim 6 would have been upheld had the claims not been amended. The rejection of newly added Claims 11-13, which now recites "A therapeutic agent or prophylactic agent for treating or preventing a disease characterized by an

abnormal response to insulin or abnormal insulin levels, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 11 and "An insulin-mimetic action agent, wherein the agent comprises an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 13 under 35 U.S.C. 102(b) as being anticipated by Maurel et al. (A*, US 6,129,124) and the rejection of newly added Claims 14 and 15 under 35 U.S.C. 102(b) as being anticipated by Minegami (U*, Japanese Patent Abstract: 58-162526) have been withdrawn. However, upon further consideration, a new grounds of rejection of newly added claims 11, 12, 14 and 15 is made under 35 U.S.C. 102(b) as being anticipated by Cho (O, Japanese Patent Number: 2001-039882, Translation provided herein) and under 35 U.S.C. 102(b) as being anticipated by Shimura (N, Japanese Patent Number: 05-255100, Translation provided herein) and a new grounds of rejection of newly added claim 13 is made under 35 U.S.C. 102(b) as being anticipated by Yang et al. (V, PubMed Abstract. Acta Pharmacol Sin. 2000; 21(3): 239-42).

Applicant's arguments, see "Applicant Arguments/Remarks Made in an Amendment", filed 03 May 2006, with respect to the rejection of claims 7-10 under 35 U.S.C. 102(b) as being anticipated by Zhao (B*, US 6,171,635) have been fully considered and are persuasive in view of the cancellation of Claims 7-10 and in view of newly added claims 16 and 17, which now recites "An agent for the enhancement of

glucose uptake into a cell, comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 16 and "An agent for induction of adipocyte differentiation, comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 17. The original rejections made on the original Claim 1, which read, "An agent for enhancement of glucose uptake into a cell, characterized in that the agent comprises as an effective ingredient a processed product derived from a plant belonging to Umbelliferae", which also included Claim 8 and Claim 9, which read "An agent for induction of an adipocyte differentiation, characterized in that the agent comprises as an effective ingredient a processed product derived from a plant belonging to Umbelliferae", which also included Claim 10 under 35 U.S.C. 102(b) were anticipated Zhao (B*, US 6,171,635) would have been upheld had the claims not been amended. The rejection of newly added Claims 16 and 17, which now recites "An agent for the enhancement of glucose uptake into a cell, comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 16 and "An agent for induction of adipocyte differentiation, comprising an extract of a plant selected from the group consisting of *Angelica keiskei* koidz., *Apium*, *Daucus*, *Oenanthe javanica*, *Cryptotaenia japonica* Hassk and *Angelica pubsecens* as an effective ingredient" as Claim 17 under 35 U.S.C. 102(b) as being

anticipated by Zhao (B*, US 6,171,635) have been withdrawn. However, upon further consideration, a new grounds of rejection of newly added claim 16 is made under 35 U.S.C. 102(b) as being anticipated by Yang et al. (V, PubMed Abstract. Acta Pharmacol Sin. 2000; 21(3): 239-42) and a new grounds of rejection of newly added claim 17 is made under 35 U.S.C. 102(b) as being anticipated by Shimura (N, Japanese Patent Number: 05-255100, Translation provided herein).

Claim Rejections - 35 USC § 102

Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho (O, Japanese Patent Number: 2001-039882, Translation provided herein).

Cho teaches a prophylactic/therapeutic preparation for treating diabetes in the form of a drug or a health food comprising *Daucus carota* L. (See Abstract and Claims 1-4), which reads on Claims 11, 12, 14 and 15.

Therefore, the reference anticipates the claimed subject matter.

Claims 11, 12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimura (N, Japanese Patent Number: 05-255100, Translation provided herein).

Shimura teaches a lipase inhibitor comprising of active substances extracted from Dokkatsu (*Angelica pubescens*) for preventing or suppressing obesity and which checks lipase activity (See Abstract, Claim 1 and paragraphs 0001 and 0007), which reads on Claims 11, 12 and 17.

Therefore, the reference anticipates the claimed subject matter.

Claims 13 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang et al. (V, PubMed Abstract. Acta Pharmacol Sin. 2000; 21(3): 239-42).

Yang teaches *Oenanthe javanica* flavone, which is an extract of *Oenanthe javanica*, for the treatment of diabetes, wherein the *Oenanthe javanica*flavone possesses hypoglycemic and hypotriglyceride actions and promotes release of insulin, which reads on Claim 13 and 16.

Therefore, the reference anticipates the claimed subject matter.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 11 and 14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 7 of copending Application No. 10/483,491 and Claim 14 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 22 of copending Application No. 10/257,321. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the intended uses are different, Claims 1 and 7 of copending Application No. 10/483,491 are drawn too a therapeutic agent or prophylactic agent comprising as an effective ingredient an extract with water, an ethanol-containing water or ethanol obtained from Humulus lupulus or Angelica keiske koidz and a food, beverage or feed comprising as an effective ingredient an extract with water, an ethanol-containing water or ethanol obtained from Humulus lupulus or Angelica keiske koidz and claims 11 and 14 of the this Application are drawn to a therapeutic agent or prophylactic agent comprising an extract of a plant selected from the group consisting of Angelic keiskei koids, Apium, Daucus, Oenanthe javanica, Cryptotaenia japonica, Hassk and Angelica pubsences an effective ingredient and a food, beverage or feed comprising an extract of a plant selected from the group consisting of Angelic keiskei koids, Apium, Daucus, Oenanthe javanica, Cryptotaenia japonica, Hassk and Angelica pubsences an effective ingredient. Claim 22 of copending Application No. 10/257,321 is drawn to a beverage or feed comprising an effective amount of a plant derived extract for treating said disease, wherein the plant is selected from the group consisting of plants belonging to Umbelliferae, Moraceae, Leguminosae, Tiliaceae, Cruciferae and Zingiberaceae.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

No claims are allowed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy L. Clark whose telephone number is (571) 272-1310. The examiner can normally be reached on 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amy L. Clark
AU 1655

Amy L. Clark
July 14, 2006

Michele C. Flood
MICHELE FLOOD
PRIMARY EXAMINER